



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

**Community Outreach, Safety and Healthcare
Administration Committee**

March 15, 2006

2:00 PM

Commission Chamber

Charles Anderson, CPA
Commission Auditor

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**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

Legislative Analysis

**Community Outreach, Safety & Healthcare Committee
Meeting Agenda**

March 15, 2006

Written analyses for the below listed items are attached for your consideration in this Legislative Analysis.

Item Number(s)

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| 2(A) |
| 2(B) |

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:

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LEGISLATIVE ANALYSIS

ORDINANCE REQUIRING EMERGENCY RESPONSE PLAN FROM GAS STATIONS DURING A LOCAL STATE OF EMERGENCY.

Chairman Joe A. Martinez, and Commissioners Jose “Pepe” Diaz, Audrey Edmonson, Carlos A. Gimenez, Sally A. Heyman, Barbara J. Jordan, Dennis C. Moss, Dorrin D. Rolle, Rebeca Sosa, and Sen. Javier D. Souto.

I. SUMMARY

This ordinance creates Section 8B-16 in the County Code requiring gas station owners in Miami-Dade County to prepare an emergency plan for the uninterrupted operation of their facilities in the event of a local state of emergency. Gas stations must provide for the sale of gasoline to the general public within 24 hours after a declared emergency.

This item also requires gas station owners develop an emergency response plan by June 1, which specifies:

- An alternate source of power, during periods of electrical outage.
- A maintenance plan for the up-keep of any new equipment related to the alternative power supply.
- A plan to recall essential gas station personnel in the event of an emergency.
- A schedule showing that the equipment for the alternate power supply will be purchased/leased and installed prior to June 1, 2006.
- If the alternate power source requires construction or a building permit, the permit must be obtained prior to March 1, 2006 and a certificate of occupancy must be obtained prior to June 1, 2006.
- If the alternate power source requires the delivery of generators from off-site facilities, gas station owners must supply evidence of the availability of the generators.
- Gas station owners must file their respective Gas Station Emergency Plans with the director of Emergency Management no later than February 1, 2006.

This ordinance also amends Section 8CC of the Code to include a \$500 civil penalty for failure to abide by the Section 8B-16.

II. PRESENT SITUATION

Currently there is no provision in the County Code which mandates Gas Stations to open after a declared local emergency. Following the recent hurricanes, gas stations in affected areas opened sporadically and without standard hours due to power outages and staff shortages.

However, according to Section 8B-7 of the County Code, the “Manager is authorized to take special action and put in place all appropriate regulations that will protect the lives

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and property of the citizens of Miami-Dade County,” and could also issue an “order requiring the discontinuance of the sale, distribution or giving away of gasoline” in inappropriate containers.

III. POLICY CHANGE AND IMPLICATION

This item would amend Section 8B of the County Code relating to Emergency Management to include a provision concerning the operation of gas stations after a declared local emergency.

This ordinance also amends Section 8CC of the Code to include a \$500 civil penalty for failure to abide by the Section 8B-16.

The State Legislature is taking up a measure which would provide tax breaks to gas stations for the purchase of generators. A more stringent bill that would require gas station owners equip their businesses with generators has lost support among law-makers who cite the potential financial burden on gas station owners. *See Attachment 1, “Lawmakers change tune on gas-pump generators,” Miami Herald, March 9, 2006.*

IV. ECONOMIC IMPACT

The economic impact of this ordinance is not immediately known.

The office of Emergency Management may be required to hire additional staff to review the plans of the various gas stations in the County, and perform site checks that gas stations in compliance with the Code.

V. COMMENTS AND QUESTIONS

Gas station owners are required to submit their emergency response plans by February 1, 2006, and must have their gas stations fully equipped with their alternative power supplies by June 1, 2006. Though the June 1, date coincides with the start of hurricane season, this could cause undue financial burden on gas stations which have to procure emergency generators.

The legislation being considered by the State Legislature includes a provision which preempts local governments from enacting laws governing the operation of gas stations during a state of emergency.

LEGISLATIVE ANALYSIS

ORDINANCE REQUIRING EMERGENCY RESPONSE PLAN FROM FOOD STORES LOCATED IN THE INCORPORATED AND UNINCORPORATED AREAS FOR THE SUPPLY OF FOOD DURING A LOCAL STATE OF EMERGENCY; ESTABLISHING DEFINITIONS; PROVIDING FOR MINIMUM CONTENTS OF THE PLAN INCLUDING THE REQUIREMENT OF THE UNINTERRUPTED SUPPLY OF POWER; PROVIDING FOR APPROVAL BY THE DIRECTOR OF THE OFFICE OF EMERGENCY MANAGEMENT; PROVIDING FOR EXEMPTIONS FOR LIMITED PERIODS; ESTABLISHING PENALTIES AND ENFORCEMENT PROCEDURES, AMENDING CHAPTERS 8B AND 8CC OF THE CODE, PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

Chairman Joe A. Martinez
Commissioner Carlos A. Gimenez
Commissioner Javier D. Souto

I. SUMMARY

This ordinance establishes emergency response requirements for Retail Food Stores larger than 40,000 square feet, to provide for the sale of food and supplies to the general public within 24 hours of a declaration of a local state of emergency.

Further, this ordinance requires the retail establishment to develop a “Food Store Emergency Plan” by June 1, 2006, including:

- An Alternate Power Source (APS) sufficient to provide for the sale of items to the public
- A schedule showing the purchase or lease of an APS and required permits and/or certificates of occupancy not later than June 1, 2006
- A maintenance plan for equipment related to the APS
- Plans for recall of personnel needed for distribution
- Identification of person having operation control of the store or emergency contact person charged with implementing the Emergency Plan

The County Office of Emergency Management (OEM) is charged with reviewing and enforcing the implementation and execution of these Emergency Response Plans.

II. PRESENT SITUATION

Section 8B-10, of the Codes of Miami-Dade County, requires county licensed private transportation services providers to participate in the evacuation of Residential Healthcare Facilities in the event of a declaration of an emergency.

The County Commission, as well as the State Legislature, are currently considering similar pieces of legislation as it relates to requirements of Gasoline Service Stations to have Alternative Power Sources and have the ability service the General Public within 24 hours of a declaration of local emergency. **(SEE ATTACHMENT)**

III. POLICY CHANGE AND IMPLICATION

This proposed ordinance amends Chapter 8(B) of the Code of Miami Dade County to require certain measures of private retail food establishments larger than 40,000 square feet, in the event of a declaration of a local state of emergency.

This ordinance also amends Chapter 8(CC) of the Codes of Miami Dade County, and establishes a Civil Penalty of \$500 per day in the event of a failure to comply with the requirements established herein.

IV. ECONOMIC IMPACT

The fiscal impact incurred by the Office of Emergency Management is indeterminable at this time. The cost of overseeing this program will depend on the number of locations which will need to be monitored, the utilization of other County Departments such as Team Metro to assist in the inspections of these establishments, as well as the need for additional staffing to carry out the provisions of this section.

V. COMMENTS AND QUESTIONS

ATTACHMENT 1: Article from the *Miami Herald*, March, 9, 2006, detailing Similar Legislation with regards to Gasoline Service Stations and the modifications made to this legislation in the Florida Senate. **This legislation currently preempts more stringent standards at the local level.**

Handwritten page 6, of this item, contains two deadline dates which have already passed. These dates will need to be amended to allow for the establishments to comply with the provisions of this ordinance.

ATTACHMENT 1

Posted on Thu, Mar. 09, 2006

Lawmakers change tune on gas-pump generators

Shying away from forcing gas stations to own generators, lawmakers are ready to give tax breaks to rewire gas stations to make them generator-ready.

BY MARC CAPUTO

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TALLAHASSEE - Five months after Hurricane Wilma blew through, the political will to require power generators at nearly every gas station has lost its spark in the Legislature.

State lawmakers said Wednesday it was too expensive, too risky and, according to some, too liberal a notion to force so many stations to invest in a product that costs up to \$50,000 -- and that could be ruined along with the station during a hurricane.

Instead, lawmakers want to offer tax breaks for owners to re-wire their stations and make them ready for a generator trucked from a safe spot. Owners of 10 gas stations in a single county would be required to have one generator, and port operators and fuel distributors must have generators capable of pumping fuel for three days. Maximum tax credit: \$15,000 per location.

Some Florida cities -- particularly Pembroke Pines and Hallandale Beach -- opposed the gas station bill because it didn't go far enough and prevents local governments from enacting tougher rules. Hallandale Beach, for instance, passed a gas-station generator law in the days after Wilma when Republican and Democratic lawmakers made big promises.

"This makes requirements for wiring at gas stations," said Lawrence J. Smith, a former Democratic congressman and a lobbyist for Hallandale and Pembroke Pines. "`There's no mandate they be open. There's no mandate they pump gas. How can you have a bill that doesn't mandate you go into operation?"

PROMPT RESPONSE

The statement prompted a swift response from Sen. Alex Díaz de la Portilla, a Miami Republican.

"A free market will dictate that," Díaz de la Portilla said, adding that he doesn't believe government should interfere with business. Díaz de la Portilla co-sponsored the bill that passed his domestic security committee Wednesday. A similar bill passed another House committee, as a number of lawmakers kvetched that they didn't like telling private business what to do, but didn't want to give tax handouts, either.

All the while, Smith raised the same objections: Too few people will get too little gas without enough generators.

The response: People should stay home, said David Mica, executive director of the Florida Petroleum Council.

"This is not going to mean that we automatically have gas and that you should immediately go out on the road," Mica said. Instead, he said, the bill seeks to make a supply of gas available for an emergency situation.

REQUIREMENTS

According to a staff analysis, the bill requires:

- Fuel distributors, such as those in Port Everglades, which supplies 40 percent of Florida's fuel, to have generators by Dec. 31 that can be turned on 36 hours after a storm and can operate for three days.

- Generator-ready rewiring at gas stations that are a half-mile from state and federal highways or evacuation routes. Cost to rewire: up to \$8,000.
- Gas stations built or significantly renovated after July 1 to be generator ready.
- Rewiring at stations with 16 or more pumps in large counties, such as Miami-Dade and Broward, and at stations with eight or more pumps in counties such as Monroe by Dec. 31. Cost to rewire a 10-pump station and equip it with a generator: About \$65,000.

‘ LUCRATIVE BUSINESS’

"So this is a very lucrative new business?" asked Sen. Frederica Wilson, a Miami Democrat. A lobbyist responded that it was profitable for electrical contractors, but that people ``can't just have your neighbor do it."

Diaz de la Portilla laughed: `` Obviously he doesn't live in Miami."

Later, the committee unanimously approved another Diaz de la Portilla hurricane-related bill, requiring 75-foot-tall condominiums to have generator-powered elevators. But he said it would be changed to provide subsidies to those buildings.

Joyce Goodman-Guenther, an attorney representing about 50 condominiums, said most new condominiums have generator-powered elevators and that no one opposes the idea. They just don't want to get stuck with a hefty new bill.

"If suddenly they hear they need to get something done and there's no resource to accomplish it, they'll panic," she said.

Herald staff writer Gary Fineout contributed to this story.